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TO RUEHC/SECSTATE WASHDC PRIORITY 4573
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RUEHFR/AMEMBASSY PARIS 0725

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SUBJECT: Court of Appeals Hears Arguments on Case of Moussa Kaka;
Verdict Delayed until Oct. 7

REF: a) Niamey 00737, b) Niamey 00623

¶1. On September 16, the State Prosecutor asked the Court of Appeals to permit a reclassification of the charges against jailed Nigerien Radio France International (RFI) affiliate director Moussa Kaka from "conspiracy against national security," which is subject to life imprisonment, to committing an act "aiming to undermine national defense," which is subject to a prison sentence of one to five years.

¶2. Moussa Kaka's attorney challenged this request, arguing that the charge could not be applied, as Niger is not in a state of war. Instead, he claimed, Niger asserts it is fighting bandits (drug traffickers and contraband smugglers) rather than rebels, thus its operations in the North involve "maintaining public order." Kaka's attorney advised the Court to avoid being "instrumentalized," and concluded his statement by asking the Court to affirm the lower court's finding (Ref A), dropping the charges against his client.

¶3. The Court of Appeals will render its verdict on October 7.

WHITAKER